

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN REINY JABS**, on February 17, 1999 at 3:09 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Greg Jergeson
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

Members Excused: None

Members Absent: None.

Staff Present: Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.
No cassette tapes are available from this hearing.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SJ 11, 2/15/99
Executive Action: SB 384, SB 392, SB 401

HEARING ON SJ 11

Sponsor: SENATOR GREG JERGESON, SD 46, CHINOOK

Proponents: Dave McClure, Montana Farm Bureau

Dale Pfau, Campaign to Reclaim Rural America
Hank Zell, Shelby Farmer/Rancher
Don Taylor, Livestock & Farm Forum
Ron DeYong, Montana Farmers Union
Bob Stephens, Montana Grain Growers
Chet Kinsey, Montana Farmers Union
Ralph Peck, Montana Dept. of Agriculture
Aaron Browning, Northern Plains Resource Council
Jennifer Salisbury, Montana Stock Growers Assoc.
Betty Waddell, Montana Assoc. of Churches
Steve Bullock, Montana Dept. of Justice

Opponents: NONE

Opening Statement by Sponsor:

SENATOR GREG JERGESON, SD 46, Chinook The entire Agriculture Committee requested we draft a resolution in support of the grass roots petition drive. Received e-mail from Sharon Kindle of Women Involved in Farm Economics. **SEE EXHIBIT(ags39a01)**. Last weekend I stopped for gas at Cenex in Great Falls. There was a copy of the petition there and not all signatures had rural addresses. Looks like our urban neighbors are starting to understand our problem.

Proponents' Testimony:

Dave McClure, Montana Farm Bureau, distributed handout supporting message to Washington, D.C. **SEE EXHIBIT(ags39a02)**. Two national farm study commissions noticed some problems with action and inaction of the federal government. Actions include sanctions on 74 countries, 75% of which were imposed in the last six years. There is a law on the books that the Secretary of Agriculture compensate the agricultural community for losses; these sanctions hurt us. Inaction includes Federal Agricultural Improvement and Reform Act. We need government aggression in developing new markets. The trade agreement needs to be enforced. Farm Bureau would propose amendments to **SJ 11**. Congress must encourage movement of grain, not storage. Agriculture markets are terrible and we need a joint resolution to request investigation. We need to be together, a joint effort with the Montana Ag Coalition. Passed out Montana Ag Coalition Plan for Sustained Agricultural Viability. **SEE EXHIBIT(ags39a03)**. Explained proposed amendments. **SEE EXHIBIT(ags39a04)**.

Dale Pfau The petition is active in 15 states and has exploded nationally on radio talk shows and in newspapers. A show in

Topeka, Kansas warned there will be no rural America left. Add to this resolution but don't detract from it, don't change it in Montana. At a rally in Pierre, SD, the petition was the centerpiece. Keep the integrity of the piece.

Hank Zell, Farmer/Rancher, Shelby, has been working on trade issues since 1994. He receives calls from all over the country and from all types of agriculture. He supports **SJ 11**.

Don Taylor has farmed and ranched for 30 years. His farm has been in their family for over 80 years. The joint commodity price is the lowest it's been since 1985. Bins are full and there's no marketing. The petition is moving a powerful beast. It's making a difference and drawing national attention.

Ron DeYong Montana Farmers Union, Women Involved in Farm Economics We really need a price for our product. There are 8 points in the resolution and every one is important. The place where price is mentioned is critical and has to stay. Add new language after (9), but do not replace current (1). **SENATOR CONRAD BURNS** gave a speech in the Rotunda and mentioned price quite extensively. We must be open to new ideas. In the last four trade days, wheat dropped twenty cents a bushel.

Bob Stevens, Montana Grain Growers would like to see the Farm Bureau amendments worked in and stand in support of **SJ 11**.

Chet Kinsey, Montana Farmers Union, Senior Citizens stand in support of **SJ 11**. When Russia bought our grain, we had a good price. Montana has a surplus. We need a secure tax base for our biggest industry. Washington needs to protect agriculture and our domestic supply of food.

Ralph Peck, Dept. of Agriculture, We try to be optimistic, but cannot be when we look at the price challenge. There is no unanimous consent on the issues before us. Agriculture is looking at a major challenge. We have to address the issue in front of us and I hope **SJ 11** will help. It is our intent to look at all the issues.

Aaron Browning, Northern Plains Resource Council, passed out written testimony. **SEE EXHIBIT(ags39a05)**. Endorse **SJ 11** as it is, add to it if you like.

Jennifer Salisbury, Montana Stock Growers, would like Farm Bureau's amendments worked in.

Betty Waddell, Montana Assoc. of Churches, thanked the committee for putting together the resolution. It's worse than the 1980's. The problem is different; the market system is not working. It's an international, global problem with certain companies doing the controlling.

Steve Bullock, Montana Dept. of Justice, Assistant Attorney General. Packers reported a record year profit. **SEE EXHIBIT(ags39a06)**. **SJ 14** in 1991 was not funded. **SEE EXHIBIT(ags39a07)**. The problem originated in 1991. Since the turn of the century, five companies have been in control. The top four packers account for 80% of slaughter. The Dept. of Justice has 3 feet of files. Distributed copies of four letters sent to the Secretary of Agriculture requesting investigation of unfair practices. **SEE EXHIBIT(ags39a08)**, **EXHIBIT(ags39a09)**, **EXHIBIT(ags39a10)**, **EXHIBIT(ags39a11)**. There's little Montana Dept. of Justice can do. We continue to urge antitrust investigation.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR MESAROS would like to review the Farm Bureau amendments.

Dale Pfau wants to try to bring farm organizations together with some form of focus. The problem is, one person says one thing, the next person says another. He has no problem with adding amendment #1 behind, but not replacing language in the current resolution. He hopes this will cause creative thinking in Washington and bring Ag community to speak together.

SENATOR MESAROS Is language in the petition consistent with the resolution?

Dale Pfau Yes, it is close to the joint resolution.

SENATOR MESAROS The petition is circulating in other states. Are other states drafting resolutions?

Dale Pfau Kansas and South Dakota have resolutions.

SENATOR HOLDEN Page 2, line 6, moves responsibility of enforcement from Agriculture to Justice. What is Farm Bureau's comment?

Dave McClure Department of Justice enforces the laws.

Aaron Browning We feel the Packers & Feed Act violates the antitrust. It is appropriate that Dept. of Justice take the lead.

SENATOR NELSON thanked the people who worked on this.

SENATOR TESTER The role of the state in antitrust is minimal. Is this due to budget?

Steve Bullock No. Dept. of Justice had a couple divisions ten years ago. Department of Commerce is the chief agency for antitrust. At the federal level, we urge investigation and enforcement. The law in 1921 put enforcement in the Dept. of Agriculture.

SENATOR TESTER commented on #1 saying we need to approach cautiously. This program could take people off the land, not put them on. It may do the opposite of its intention. We've witnessed subsidies take people off the land.

SENATOR DEVLIN There's nothing about freight prices.

Discussion regarding McCarty Farms litigation. **SJ 11** does not address freight issues.

SENATOR DEVLIN looked over Farm Bureau amendments and thought they might strengthen the resolution.

SENATOR JERGESON said that as additions, they strengthen the bill; as substitutes they weaken it.

SENATOR BECK questioned prices for transportation and the role of the Canadian Grain Board.

Dave McClure met with Canadian producers on how the board operates. Rancher/Cattlemen Actual Legal Fund petition alleges grain to feed is lower than their market price. There's no proof of this until the Canadian Board opens their books.

SENATOR HALLIGAN heard a speech by economist Thoreau. With the Russian economy going capitalist, we're in for a rude awakening. The long-term prospects may be difficult.

SENATOR JERGESON heard the same speech and was shaken. Suggests if we think we entirely rely on market, the mechanism might have to change so we're not entirely at mercies of markets.

SENATOR DEVLIN would like to see the sanctions list that was mentioned in testimony.

Doug McClure said he would provide the list.

Closing by Sponsor:

SENATOR JERGESON felt the amendments would strengthen this bill. Most of the concern is with the first item. This is a safety net system. Emergency price support is not reinstituted on a permanent basis. We're faced with a continuing emergency, so let's not dilute #1. We need the transference of enforcement to Dept. of Justice. Move to other agency is more objective.

EXECUTIVE ACTION ON SB 384

Motion: **SEN. MESAROS** moved that **SB 384 DO PASS.**

Doug Sternberg passed out amendment SB038401.ads which cleans up the language and makes it consistent. **SEE EXHIBIT(ags39a12).**

Motion/Vote: **SEN. DEVLIN** moved that **AMENDMENT SB038401.ADS BE ADOPTED.** Motion carried unanimously.

Motion/Vote: **SEN. MESAROS** moved that **SB384 DO PASS AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 392

Motion: **SEN. HOLDEN** moved that **SB 392 DO PASS.**

SENATOR DEVLIN said he was going to resist the motion. There was a bounty years ago. Coyotes were brought in from out of state. What's the justification for payment? We're asking sheriff departments to do a tedious chore for 50 cents. It won't get the coyotes doing the damage, because people will go where they can get the coyotes easily. There are several programs within the federal government. He passed out a letter from Carter County Predator Board saying they had held eight meetings in all parts of the county and there was not favorable support of a bounty program. The county commissioners are also not in favor of the program. **SEE EXHIBIT(ags39a13).** Bounty programs are not successful.

SENATOR MESAROS asked if the Dept. of Livestock was in favor of this bill.

Mark Bridges said the board did not take a position on the bill.

SENATOR MESAROS had concerns with funding for this bill impacting funding on existing predator control programs. The bounty is an opportunity for mischief and does not address the problem areas.

SENATOR BECK stated we fought on the buffalo in Yellowstone Park. If we put on a coyote bounty, we'll fight with the same people.

SENATOR HOLDEN When the sheriff department inspects 100 sheep, they get paid \$1.00, but they'll get 50 cents a head on coyotes. Currently, if you add the budget up and divide by coyotes taken, it equals \$200 per coyote. Twenty people can't address the problem. There is no program to address general coyote population.

SENATOR EKEGREN supports the bill. His district has predators and his are endangered species. He has had positive mail for this bill, more than for any other legislation.

SENATOR NELSON Were the Wool Growers proponents? They are conspicuous in their absence and have a vested interest.

SENATOR HOLDEN Some support a bounty, some do not.

SENATOR DEVLIN Carter County is one of the largest sheep producing counties. The Wool Growers Assoc. pays attention to those groups. Let's vote on this and get it over with.

SENATOR MESAROS Did you check with the Stock Growers?

SENATOR HOLDEN didn't have single stockgrower who did not like the bill. He campaigned on this issue in Carter County.

SENATOR MESAROS Statewide, Wool Growers are not a proponent.

Vote was a tie, 5-5 with **SENATOR JERGESON** gone. Vote held open.

EXECUTIVE ACTION ON SB 401

There is a fiscal note dated 2/13. Amendments adopted in concept, second amendment by **SENATOR BECK**. Revised copy. **SEE EXHIBIT (ags39a14)**. Doug explained.

SENATOR DEVLIN thought **SEN. BECK** wanted to take unearned farm income out of equation.

SENATOR BECK This should only be based on earned income, not unearned income such as interest, stocks, etc.

SENATOR DEVLIN Take onetime nonfarm income out.

Bob Turner Some unearned income is farm income, like depreciation, livestock sold.

SENATOR HOLDEN The Dept. continues to use income as the test. We need amendments that talk about fuel use. The amendment by the Dept. is based on income. Page 3, line 28, gives a definition of agricultural use. If we insert "off-road use", applying for refund will be based on off-road use.

SENATOR HALLIGAN What kind of report would be used?

SENATOR HOLDEN answered the same as at present, Schedule F, 4130. Total gallons of bulk fuel delivered are added up, your accountant looks at your operation and applies a percentage to the farm operation. If we insert "off-road use", it's not based on income any more.

CHAIRMAN JAB My accountant used federal form and need documentation.

SENATOR HOLDEN The accountant takes all bulk deliveries, adds gallons, looks at application and applies the factor. If you are audited, you show all bulk deliveries and tell auditor that 60% was used off-road. You may have to negotiate if you don't like the factor.

SENATOR MESAROS Agricultural use involves some on-road use for us in our operation.

SENATOR HOLDEN That's why your accountant looks at the operation and use factor. I move we take off Friday's amendment, add two words, "off-road", and hear from Dept.

Motion/Vote: **SEN. HOLDEN** moved **FRIDAYS'S AMENDMENTS TO SB 401 BE REMOVED.** Motion carried 7-4.

Motion: **SEN. HOLDEN** moved to **INSERT WORDS "OFF-ROAD" ON PAGE 3, LINE 28 AND ON PAGE 6, LINE 24 IN SB 401.**

Discussion was held as to whether this still allows people with 20 acre parcels to file for the fuel tax refund. **SENATOR HOLDEN** pointed out filing for off-road fuel tax refund is fraud when the fuel is used on-road. **SENATOR HALLIGAN** thought the same definition was being left in the bill allowing small tract owners to file for refunds. **SENATOR HOLDEN** pointed out the bill reads "engaging in the business of farming or ranching". **SENATOR EKEGREN** stated that we can't legislate all problems and anticipate every way systems can be abused.

Vote: Motion **carried 6-5.** Roll call vote.

Executive Action will be deferred until 2/19/99 when the amendments and new fiscal note are printed.

EXECUTIVE ACTION ON SB 392 (Continued)

SENATOR JERGESON joined the committee at this point and voted no on the Do Pass motion on **SB 392.**

Motion/Vote: **SEN. DEVLIN** moved that **SB 392 BE TABLED.** Motion **carried 7-4.** Roll call vote.

ADJOURNMENT

Adjournment: 5:23 P.M.

SEN. REINY JABS, Chairman

CAROL MASOLO, Secretary

RJ/CM

EXHIBIT (ags39aad)